

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF PROPOSED ADOPTION,
RULE I, amendment of ARM)	AMENDMENT, AND REPEAL
12.11.2308, 12.11.3201, and)	
12.11.3215, and repeal of ARM)	NO PUBLIC HEARING
12.11.1001, 12.11.2401, and)	CONTEMPLATED
12.11.3601 regarding no wake zones)	
surrounding commercial marinas)	

TO: All Concerned Persons

1. On April 26, 2012, the Fish, Wildlife and Parks Commission (commission) proposes to adopt, amend, and repeal the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the commission no later than February 23, 2012, to advise us of the nature of the accommodation that you need. Please contact Coleen Furthmyre, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; e-mail cfurthmyre@mt.gov.

3. The new rule proposed to be adopted provides as follows:

NEW RULE I NO WAKE ZONES SURROUNDING COMMERCIAL MARINAS (1) Vessels are limited to a controlled no wake speed as defined in ARM 12.11.101(1) surrounding commercial marinas as buoyed.
(2) A commercial marina may not establish a no wake zone beyond 300 feet of the marina docks without prior approval from the department.

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-106, 87-1-303, MCA

4. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

12.11.2308 HEBGEN LAKE (1) Hebgen Lake is located in Gallatin County.
(2) Hebgen Lake is limited to a controlled no wake speed as defined in ARM 12.11.101 in the following areas:
(a) Rainbow Point Bay no wake or as buoyed; and
(b) Loneshomehurst Campground within 200 feet of the shoreline or as buoyed;
(c) ~~Kirkwood Resort Marina and residential area and private marina within 200 feet of the shoreline or as buoyed;~~
(d) ~~Happy Hour Marina within 200 feet of the docks or as buoyed;~~

- and
- ~~(e) Yellowstone Holiday Marina within 200 feet of the docks or as buoyed;~~
 - ~~(f) Madison Arm Resort within 200 feet of the docks or as buoyed.~~

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-106, 87-1-303, MCA

12.11.3201 CANYON FERRY RESERVOIR - LEWIS AND CLARK COUNTY

(1) In Lewis and Clark County, Canyon Ferry Reservoir is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), within 300 feet of docks or as buoyed in the following areas:

- ~~(a) Yacht Basin;~~
- ~~(b) (a) Cave Bay;~~
- ~~(c) (b) Little Hellgate;~~
- ~~(d) (c) Magpie Bay;~~
- ~~(e) (d) Carp Bay; and~~
- ~~(f) (e) Canyon Ferry Dam to Riverside boatramp.~~

~~(2) In Broadwater County, Canyon Ferry Reservoir is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), within 300 feet of docks or as buoyed in the following areas:~~

- ~~(a) White Earth; and~~
 - ~~(b) Goose Bay.~~
- (3) remains the same and renumbered (2).

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-106, 87-1-303, MCA

12.11.3215 HOLTER LAKE (1) Holter Lake is located in Lewis and Clark County.

(2) Holter Lake is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), in the following areas:

- ~~(a) Gates of Mountains marina on (Upper Holter Lake) within 300 feet of docks or as buoyed;~~
 - ~~(b) through (d) remain the same and renumbered (a) through (c).~~
 - ~~(e) (d) Departure Point; and~~
 - ~~(f) (e) Merriweather Camp; and~~
 - ~~(g) Holter Lake lodge docks.~~
- (3) remains the same.

AUTH: 23-1-106, 87-1-303, MCA
IMP: 23-1-106, 87-1-303, MCA

5. The commission proposes to repeal the following rules:

12.11.1001 CANYON FERRY RESERVOIR - BROADWATER COUNTY

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

12.11.2401 FORT PECK RESERVOIR

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

12.11.3601 FORT PECK RESERVOIR

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

Reasonable Necessity: With the possibility of future no wake areas being requested for other established or new marinas for the commission to consider individually the commission is proposing adoption of one statewide rule regarding establishing no wake zones surrounding commercial marinas. Marinas have high boat traffic and have many boats docked so these areas regardless of location are susceptible to accidents and boat damage due to wakes. Currently over half of the commercial marinas have a no wake restriction and this proposal will make the rules consistent throughout the state.

The commission is proposing amendment and repeal of rules that list individual commercial marina restrictions by body of water. A statewide rule would eliminate the need for individual marina restrictions to be listed in separate rules.

6. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Ron Jendro, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59620-0701; fax 406-444-7894; e-mail rjendro@mt.gov, and must be received no later than March 9, 2012.

7. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Coleen Furthmyre at the above address no later than 5:00 p.m., March 9, 2012.

8. If the agency receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be greater than 25 people based on the fact that every Montana citizen has access to Montana's lakes.

9. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make written request which includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the commission or department.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Joe Maurier

Joe Maurier, Secretary
Fish, Wildlife and Parks Commission

/s/ John F. Lynch

John F. Lynch
Rule Reviewer

Certified to the Secretary of State January 30, 2012